

Message Text

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TO AMEMBASSY BUCHAREST

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E.O. 11652: N/A

TAGS: EVIN, ETRO, CASC, RO

SUBJECT: PROPERTY CASES; GSP

REF: BUCHAREST 4878

1. THE GOR RESPONSE TO THE EMBASSY'S AIDE-MEMOIRE CONCERNING IMPLEMENTATION OF DECREE 223 AND THE PRACTICES AND PROCEDURES OUTLINED IN BUCHAREST 4878 APPEAR IN THE ABSTRACT TO ACCORD TO AMERICAN CITIZENS THE RIGHT TO PAYMENT OF PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION. THERE ARE SEVERAL ADDITIONAL QUESTIONS WHICH ARISE IN CONNECTION WITH THESE PROCEDURES IN PRACTICE WHICH THE DEPARTMENT WOULD LIKE TO HAVE CLARIFIED, HOWEVER. GENERALLY, PROBLEMS AND DIFFICULTIES ARISE IN THE DETAILS OF APPLICATION OF LAWS ON VALUATION OF PROPERTY.

A. THERE HAVE BEEN SOME REPORTS THAT THE MAXIMUM
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VALUE WHICH CAN BE PAID FOR PROPERTY TAKEN UNDER THE

PROVISIONS OF DECREE 223 IS 45,000 LEI. CAN EMBASSY
CONFIRM OR REFUTE THIS FIGURE? ANY SUCH ARBITRARY CEILING
(IF TRUE) WOULD NOT BE IN ACCORD WITH INTERNATIONAL LAW
REQUIREMENT FOR FAIR COMPENSATION IF IN FACT VALUE OF

PARTICULAR PROPERTY IS IN EXCESS OF THE STATED AMOUNT.
ON THE BASIS OF OUTSIDE INFORMATION AVAILABLE TO THE
EMBASSY, E.G., NEWSPAPER ADVERTISING CONCERNING SALES
OF USED APARTMENTS AND/OR HOUSES, OFFICIAL INFORMATION
ON SALES OF NEW PROPERTY, INFORMATION WHICH MAY COME
FROM PERSONAL CONTACTS OF EMBASSY PERSONNEL, DOES THIS
APPEAR TO REPRESENT A REALISTIC MAXIMUM ON PROPERTIES
WHICH US CITIZENS MAY POSSESS OR INHERIT?

B. WHAT IS THE EXCHANGE RATE WHICH WOULD BE USED
IN CASES WHERE PROPERTY IS SOLD AND THE PROCEEDS TRANS-
FERRED TO THE UNITED STATES?

C. IT IS CLEAR THAT THE GOR STATES THAT TRANSFER
OF FUNDS ABROAD IN INHERITANCE CASES IS PERMITTED, BUT
THE ROMANIAN RESPONSE DOES NOT MAKE CLEAR THAT THIS
SAME RIGHT WOULD BE PERMITTED IN CASE OF PROPERTY NOT
INHERITED BY US CITIZENS. ALTHOUGH INHERITANCE CASES
SHOULD ACCOUNT FOR THE MAJOR SHARE OF PROPERTIES WHICH
WOULD BE AFFECTED BY DECRES 223, EMBASSY SHOULD CLARIFY
ROMANIAN INTENTIONS WITH REGARD TO PROPERTIES WHICH WERE
ACQUIRED BY OTHER MEANS, E.G., PURCHASE BEFORE DEPARTURE
FROM ROMANIA OR BY MORE RECENT PURCHASE UNDER REGULATIONS
ENCOURAGING FOREIGN CITIZENS TO ACQUIRE PROPERTY IN
ROMANIA.

D. THE DEPARTMENT WOULD APPRECIATE ADDITIONAL
INFORMATION CONCERNING THE MATTERS RAISED IN QUESTIONS
FIVE AND SIX OF THE AIDE-MEMOIRE, I.E., VALUATION AND
PROCEDURES USED IN RE-SALE OF PROPERTY TAKEN BY THE GOR
UNDER DECREE 223. THIS DOES NOT APPEAR TO BE OF PRIMARY
CONCERN, HOWEVER, IF IN FACT THE PRIOR VALUATION CAL-
CULATED FOR PAYMENT TO AMERICAN CITIZENS REPRESENTS
PREVAILING FAIR MARKET VALUE AND MEETS STANDARDS OF
ROMANIAN LAW, US LAW AND INTERNATIONAL LAW.
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E. UNDER DECREE 223 OF 1974 ARE DECISIONS OF THE
EXECUTIVE COMMITTEE OF THE JUDET PEOPLE'S COUNCIL,
MUNICIPALITY OF BUCHAREST, AND "APPROPRIATE JUDET
OFFICIALS" SUBJECT TO FURTHER ADMINISTRATIVE AND
JUDICIAL REVIEW OR ARE THEY FINAL AND CONCLUSIVE? WHAT
FURTHER REMEDIES ARE AVAILABLE TO US PROPERTY OWNER WHO
IS NOT SATISFIED WITH VALUATION DETERMINED BY EXECUTIVE

COMMITTEE, MUNICIPALITY OF BUCHAREST AND JUDET OFFICIALS?

F. WHAT DOES LAW NO. 59/1974 MEAN CONCERNING LAND OF FOREIGN CITIZENS DOMICILED ABROAD "WHICH PASS WITHOUT PAYMENT INTO THE PROPERTY OF THE STATE"? IS SOME KIND OF FORFEITURE INVOKED? UNDER WHAT CIRCUMSTANCES? PLEASE CITE EXAMPLES IF POSSIBLE.

2. IN ORDER TO DETERMINE WHETHER THERE ARE PROPERTY CASES WHICH HAVE ARISEN SINCE 1960, WE HAVE REVIEWED SCS AND L/C FILES FOR THE PAST SEVERAL YEARS. THESE DO NOT REVEAL ANY CASES WHICH MEET THE CRITERIA OF STATE 186227. NOW THAT WE HAVE A GOOD INDICATION OF THE EXTENT OF POSSIBLY VALID CLAIMS, WE WILL UNDERTAKE TO CONTACT PERSONS WITH SUCH CLAIMS AND MAKE A FINAL DETERMINATION AS TO THE VALIDITY OF THEIR CLAIMS. THESE DETERMINATIONS WILL INCLUDE THE FOUR "POSSIBLY VALID" CLAIMS ALREADY FORWARDED TO THE DEPARTMENT AND THE SIX CASES WHICH WILL BE FORWARDED IN ACCORDANCE WITH BUCHAREST 4910. SINCE POSSIBLE CLAIMS AGAINST ROMANIA WOULD PROBABLY BE SMALL CASES WHICH INVOLVE PRIVATE INDIVIDUAL RATHER THAN CORPORATE INTERESTS, IT IS POSSIBLE THAT OTHER CLAIMS MAY BE BROUGHT TO OUR ATTENTION ONCE GENERALIZED PREFERENCES ARE EXTENDED TO ROMANIA, AND THE CONDITIONS FOR SUCH EXTENSION BECOME WIDELY KNOWN.

3. AS WE PROCEED WITH PROCLAMATION WHICH WOULD INCLUDE ROMANIA ON THE LIST OF COUNTRIES ELIGIBLE FOR GSP, WE BELIEVE IT IS NECESSARY TO OBTAIN ROMANIAN ASSURANCES THAT CLAIMS OF US CITIZENS WOULD BE CONSIDERED AND SETTLED BY THE GOR ON A CASE-BY-CASE BASIS OR ON OTHER MUTUALLY AGREED BASIS. SUCH ASSURANCES WOULD ENABLE US TO PROCEED WITH THE PROCLAMATION ON GSP WHILE COM-
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PLYING WITH THE PROVISIONS OF TITLE V AND PROTECTING THE INTERESTS OF AMERICAN CITIZENS WHO MAY HAVE VALID CLAIMS.

4. EMBASSY IS ASKED TO RAISE THIS ISSUE WITH THE ROMANIAN GOVERNMENT AT THE HIGHEST APPROPRIATE LEVEL. WE ARE NOT ASKING THE ROMANIAN GOVERNMENT TO COMMIT ITSELF AT THIS TIME TO SPECIFIC TERMS OF SETTLEMENT FOR CLAIMS WHICH MAY BE CONSIDERED VALID. WE ARE, HOWEVER, SEEKING OFFICIAL ASSURANCES THAT CLAIMS OF US CITIZENS WOULD BE CONSIDERED AND SETTLED BY PAYMENT OF PROMPT, ADEQUATE AND EFFECTIVE

COMPENSATION ON A CASE-BY-CASE BASIS. IN THIS CONNECTION, EMBASSY MAY WISH TO NOTE GUIDELINES NO. 5 OF THE JOINT STATEMENT ON ECONOMIC, INDUSTRIAL AND TECHNOLOGICAL

COOPERATION OF DECEMBER 5, 1973, WHICH STATES THAT
"EXCEPT FOR A PUBLIC PURPOSE, ASSETS BELONGING TO
NATIONALS, COMPANIES AND ECONOMIC ORGANIZATIONS OF ONE
OF THE TWO COUNTRIES WILL NOT BE APPROPRIATED BY THE
OTHER COUNTRY, ETC." EMBASSY MAY INDICATE THAT THE
CRITERIA FOR ESPOUSING ANY NEW CLAIMS WOULD BE SIMILAR
TO THOSE USED IN DETERMINING THE VALIDITY OF CLAIMS
UNDER THE PROVISIONS OF TITLE III OF THE INTERNATIONAL
CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED, WHICH WERE
USED IN DETERMINING ELIGIBILITY FOR PARTICIPATION IN THE
1960 CLAIMS AGREEMENT.

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